



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Agriculture

☒ Preproposal Statement of Inquiry was filed as WSR 06-05-112; or☐ Expedited Rule Making--Proposed notice was filed as WSR _____; or☐ Proposal is exempt under RCW 34.05.310(4).☒ Original Notice☐ Supplemental Notice to WSR _____☐ Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject) Chapter 16-157 WAC

The WSDA Organic Food Program is proposing changes to chapter 16-157 WAC, Organic Standards and Certification. The program is proposing to establish some new fees and increase some selected fees. The new fees and fee increases are needed to recover the cost of providing these services and to provide adequate funding for the WSDA Organic Food Program.

The proposal would increase late fees and new application fees. New fees include a \$20 site fee that will increase fees for certified organic producers. The site fee is designed to recover the cost of conducting inspections on farms and ranches that have multiple sites that need to be inspected. Organic production operations that have one location in organic production will pay a \$20 site fee. Organic production operations with multiple locations will pay \$20 for each separate site.

The proposal also includes an expedited inspection fee of \$40 per hour. This fee will recover the costs associated with expedited inspections. Expedited inspections are those inspections that conducted outside of our normal work schedule.

Hearing location(s):

Room 259
Natural Resources Building-2nd Floor
1111 Washington Street
Olympia, WA 98504-2560

Date: November 8, 2006 Time: 2 p.m.

Submit written comments to:

Name: Miles McEvoy, Organic Food Program

Address: P.O. Box 42560

Olympia, WA 98504-2560

e-mail mmcevoy@agr.wa.gov

fax (360)-902-2087 by (date) 5:00 p.m., November 8, 2006

Assistance for persons with disabilities: Contact

Julie Carlson by November 1, 2006

TTY (360)-902-1996 or (360)-902-1880

Date of intended adoption: November 17, 2006

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

Statutory authority for adoption: Chapter 15.86 RCW and chapter 34.05 RCW

Statute being implemented: Chapter 15.86 RCW

Is rule necessary because of a:

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

CODE REVISER USE ONLYCODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

OCT 4 2006

TIME

WSR

909
06-20-109AM
PM

DATE Oct 3, 2006

NAME (type or print) Jerry Buendel

SIGNATURE

TITLE Assistant Director

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: (person or organization) Washington State Department of Agriculture

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting.....Miles McEvoy	Olympia	(360) 902-1924
Implementation.. Miles McEvoy	Olympia	(360) 902-1924
Enforcement..... Miles McEvoy	Olympia	(360) 902-1924

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No. Explain why no statement was prepared.

RCW 19.85.030(1)(a) requires the department to prepare a Small Business Economic Impact Statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. The department analyzed the economic impact of the proposed amendments and concluded that the cost imposed by the proposed amendments are "not more than minor", therefore, a formal SBEIS is not required.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No: Please explain:

The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328(5)(a)(i). RCW 34.05.328 regulates "significant legislative rules" and RCW 34.05.328(5)(a)(i) lists the specific state agencies that are considered "significant legislative rule agencies." WSDA is not listed; therefore, we do not consider ourselves to be a "significant legislative rule agency." In addition, Section 309 (For the Department of Agriculture) of Chapter 372, Laws of 2006 provides that: (2) Fees and assessments approved by the department in the 2005-07 biennium are authorized to exceed the fiscal growth factor under RCW 43.135.055.

AMENDATORY SECTION (Amending WSR 02-10-090, filed 4/29/02, effective 5/30/02)

WAC 16-157-010 Purpose. This chapter is ~~((promulgated pursuant to))~~ adopted under RCW 15.86.060 wherein the director is authorized to adopt rules for the proper administration of the Organic Food Products Act, and ~~((pursuant to))~~ under RCW 15.86.070 wherein the director is authorized to adopt rules establishing a certification program for producers, processors, and handlers of organic and transitional food.

AMENDATORY SECTION (Amending WSR 04-24-015, filed 11/22/04, effective 12/23/04)

WAC 16-157-020 Adoption of the National Organic Program. The ~~((2001))~~ Washington state department of agriculture adopts the standards of the National Organic Program ((final rule)), 7 CFR Part 205, effective ((November 3, 2003, is adopted by reference as Washington state standards)) September 11, 2006, for the production and handling of organic crops, livestock, and processed food products. The National Organic Program ~~((final))~~ rules may be obtained from the department.

AMENDATORY SECTION (Amending WSR 03-03-044, filed 1/10/03, effective 2/10/03)

WAC 16-157-030 Definitions. As used in this chapter:

~~((1))~~ "Department" means the Washington state department of agriculture ~~((of the state of Washington))~~.

~~((2))~~ "Director" means the director of the department of agriculture or his or her duly authorized representative.

~~((3))~~ "Facility" includes, but is not limited to, any premises, plant, establishment, ~~((facilities))~~ facility and ~~((the))~~ associated appurtenances ~~((thereto, in whole or in part,))~~ where organic food is prepared, handled, or processed in any manner for resale or distribution to retail outlets, restaurants, and any other such ~~((other))~~ facility selling or distributing to ~~((the ultimate))~~ consumers.

~~((4))~~ "Gross annual income" means the total monetary value

received during a twelve-month period of time. The twelve-month period of time may be a fiscal year or a calendar year.

"Handler" means any person engaged in the business of handling agricultural products, including producers who handle crops or livestock of their own production.

"Handling operation" means any operation or portion of an operation that receives or otherwise acquires agricultural products and processes, packages, or stores such products.

"New applicant" means any person ((that)) who applies for organic certification for the first time, or ((when previous certification status has expired for at least one year)) any person who has surrendered an organic certification or had an organic certification suspended or revoked.

"Person" means any individual, partnership, limited liability company, association, cooperative, or other entity.

((+5)) "Processor" means any handler engaged in the canning, freezing, drying, dehydrating, cooking, pressing, powdering, packaging, baking, heating, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, jarring, slaughtering or otherwise processing organic food.

((+6)) "Producer" means a person who engages in the business of growing or producing food, fiber, feed, and other agricultural-based consumer products.

"Production operation" means a farm, ranch, or other business that grows, gathers, or raises crops, wild crops, or livestock.

"Renewal applicant" means any person that has received organic certification from the department in the previous year.

((+7)) "Retailer" means any handler that sells organic food products directly to consumers.

((+8)) "Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media.

((+9)) "Site" means a contiguous defined field, orchard, block, pasture, paddock, garden, circle, plot or other designated area under the same management practices (e.g., organic, transitional).

((+10)) "Transitional product" means any agricultural product that (a) is marketed using the term transitional in its labeling and advertising and (b) satisfies all of the requirements of organic except that it has had no applications of prohibited substances within one year prior to the harvest of the crop.

AMENDATORY SECTION (Amending WSR 02-10-090, filed 4/29/02, effective 5/30/02)

WAC 16-157-210 Confidentiality. Except for applications and laboratory analyses submitted for certification under this chapter, the department keeps confidential any business-related information

obtained under this chapter. All business-related information submitted to the department under this chapter is exempt from public inspection and copying consistent with RCW 15.86.110 and ((42.17.310)) 42.56.210.

NEW SECTION

WAC 16-157-215 General requirements for certification. (1) Except for operations exempt or excluded in the National Organic Program (7 CFR 205.101), each production or handling operation or specified portion of a production or handling operation must be certified if it produces or handles crops, livestock, livestock products, or other agricultural products intended to be sold, labeled, or represented as "one hundred percent organic," "organic," or "made with organic (specified ingredients or food group(s))."

(a) If you have an operation that meets the definition of "production operation," you must be certified as a producer.

(b) If you have an operation that meets the definition of "handling operation," you must be certified as a handler or processor unless you are a certified producer who cleans, washes, grades, dries, packages, transports, or does similar preparation of your own production.

(c) If you are a certified producer who changes crops, wild crops, or livestock products of your own production into new distinct products by physically, chemically, or otherwise changing the original product, you must also be certified as a processor.

(2) If you are seeking to receive or maintain organic certification, you must submit an application on forms approved by the department.

(a) Application forms must be signed by an authorized representative of the business operation and must be accompanied by the appropriate fees in order to be considered.

(b) Application forms are available upon request from the department.

(3) If you are a new applicant, you must include a complete organic system plan with your application.

(4) If you are a certified operation, you must submit an update to your organic system plan on an annual basis. Certified operations may be required by the department to submit a new complete organic system plan whenever there are significant changes to the operation.

(5) Applications for certification must include a list of all organic products produced and/or handled, including sample labels and complete product profiles for each distinctly labeled organic product.

(a) Certified operations must not use an organic label or make organic claims for any product not included in the operation's

organic system plan.

(b) Certified operations may add new products to their organic certification by submitting sample labels and complete product profiles to the department where applicable.

(c) Product profiles must include a complete list of ingredients in the product and processing aids used in manufacturing the product.

(6) Certified operations that do not submit a renewal application and fees to continue certification or do not comply annually with 7 CFR 205.406 may have their certification suspended.

AMENDATORY SECTION (Amending WSR 05-22-055, filed 10/28/05, effective 11/28/05)

~~WAC 16-157-220 Producer fee schedule. ((Producers who wish to apply for the organic food certification program must apply to the department each year.~~

~~(1) The cost per application shall be based on the following fee schedule.~~

~~(a) Renewal applicants--~~

~~Application fees must be based on the previous calendar year's sales of organic food. In the event that the current calendar year's sales exceed the previous year's sales, the department may bill the producer for the additional fee. In the event that the current calendar year's sales are less than the previous year's sales, the producer may request a refund for the reduced fee. In addition, renewal applications postmarked after February 1, must pay a late fee of seventy-five dollars. Renewal applicants that are adding additional sites to their organic certification must pay a new site fee of fifty dollars for each additional site.~~

~~(b) New applicants--~~

~~Application fees must be based on an estimate of the current year's sales of organic food. In the event that the current calendar year's sales exceed the estimate, the department may bill the producer for the additional fee. In the event that the current calendar year's sales are less than the estimate, the producer may request a refund for the reduced fee. In addition, new applicants must pay a one hundred dollar new applicant fee. New applicants that are seeking organic certification for more than one site must pay a site fee of fifty dollars for each additional site. The fee shall accompany the application.)) (1) If you wish to apply for the organic producer certification program, you must submit an application and fees to the department each year.~~

(2) Annual fees: The cost per producer application is based on the following fee schedule.

<u>((SALES)) GROSS ANNUAL</u>		<u>ANNUAL FEE</u>
<u>INCOME</u>		
\$ 0 -	\$ 15,000	.....\$ 200

((SALES)) GROSS ANNUAL INCOME		ANNUAL FEE
\$ 15,001 -	\$ 20,000	.....\$ 225
\$ 20,001 -	\$ 25,000	.....\$ 280
\$ 25,001 -	\$ 30,000	.....\$ 335
\$ 30,001 -	\$ 35,000	.....\$ 390
\$ 35,001 -	\$ 42,500	.....\$ 470
\$ 42,501 -	\$ 50,000	.....\$ 560
\$ 50,001 -	\$ 65,000	.....\$ 670
\$ 65,001 -	\$ 80,000	.....\$ 835
\$ 80,001 -	\$100,000	.....\$ 1,000
\$100,001 -	\$125,000	.....\$ 1,150
\$125,001 -	\$150,000	.....\$ 1,300
\$150,001 -	\$175,000	.....\$ 1,450
\$175,001 -	\$200,000	.....\$ 1,600
\$200,001 -	\$240,000	.....\$ 1,750
\$240,001 -	\$280,000	.....\$ 1,900
\$280,001 -	\$325,000	.....\$ 2,050
\$325,001 -	\$375,000	.....\$ 2,200
\$375,001 -	\$425,000	.....\$ 2,450
\$425,001 -	\$500,000	.....\$ 2,700
\$500,001 -	\$750,000	.....\$ 3,000
\$750,001 -	and up	..\$2,200 plus 0.11% of gross organic sales

~~((2) Transitional acreage fee - In addition to the producer application fee, each applicant must pay a fee of fifty dollars per site for the land for which they are requesting transitional certification.))~~ (a) New applicants: Application fees are based on an estimate of the gross annual income from organic agricultural products.

(i) In the event that the actual gross annual income from organic agricultural products exceeds the estimated gross annual income from organic agricultural products, the department may bill the producer for the additional fee.

(ii) In the event that the actual gross annual income from organic agricultural products is less than the estimated gross annual income from organic agricultural products, the producer may request a refund for the reduced fee.

(b) Renewal applicants: Application fees are based on the previous year's gross annual income from organic agricultural products.

(i) In the event that the current year's gross annual income from organic agricultural products exceeds the previous year's gross annual income from organic agricultural products, the department may bill the producer for the additional fee.

(ii) In the event that the current year's gross annual income is less than the previous year's gross annual income from organic agricultural products, the producer may request a refund for the reduced fee.

(c) Late fees: Renewal applications postmarked after February 1 must include a late fee in addition to the renewal fee.

If your application is postmarked
after February 1 but before:

The late fee is:

<u>March 1</u>	<u>\$150.00</u>
<u>April 1</u>	<u>\$300.00</u>
<u>May 1</u>	<u>\$450.00</u>
<u>June 1</u>	<u>\$600.00</u>
<u>July 1</u>	<u>\$750.00</u>
<u>August 1</u>	<u>\$1,000.00</u>

(3) Site fee:

(a) Each site that is involved in organic production must be inspected on an annual basis.

(b) All sites involved in organic production must be included as part of the producer's organic system plan.

(c) The producer of each site that is included in the organic system plan must pay a site inspection fee of twenty dollars per year.

(4) Transitional certification fee: In addition to the producer application fee, if you are requesting transitional certification, you must pay a fifty dollar transitional certification fee for each site request.

(5) New application fee: New applicants must pay a two hundred fifty dollar new application fee in addition to the annual fees.

AMENDATORY SECTION (Amending WSR 03-03-044, filed 1/10/03, effective 2/10/03)

WAC 16-157-230 Processor fee schedule. ((Processors who wish to apply for the organic food certification program must apply to the department each year. Producers that process their own organic products pay application and certification fees under WAC 16-157-220.

(1) Application fee.

(a) Renewal applicants - Application fees are two hundred dollars per facility. In addition, renewal applications postmarked after March 1, must pay a late fee of seventy-five dollars.

(b) New applicants - Application fees are two hundred dollars per facility. In addition, new applicants must pay a one hundred dollar new applicant fee.

(2) Certification fee - A certification fee based on the following fee schedule must accompany the application. Certification fees are assessments on the organic products in each category. New applicants must base certification fees on an estimate of sales in each category. Renewal applicants must base

~~certification fees on the previous calendar year's sales in each category. Applicants may have food products in more than one category.))~~ (1)(a) If you wish to apply for organic processor certification, you must submit an application and fees to the department each year.

(b) If you are a producer who processes your own organic products, you may pay application and certification fees under WAC 16-157-220 or apply separately as a processor.

(2) Application fees:

(a) New applicants: New applicants must pay an application fee of two hundred dollars per application and a new applicant fee of two hundred fifty dollars.

(b) Renewal applicants: Application fees are two hundred dollars per renewal application.

(c) Late fees: Renewal applications postmarked after March 1 must include a late fee in addition to the renewal fee.

If your application is postmarked

after March 1 but before:

The late fee is:

<u>April 1</u>	<u>\$150.00</u>
<u>May 1</u>	<u>\$300.00</u>
<u>June 1</u>	<u>\$450.00</u>
<u>July 1</u>	<u>\$600.00</u>
<u>August 1</u>	<u>\$750.00</u>
<u>September 1</u>	<u>\$1,000.00</u>

(3) Certification fees:

(a) Category I - Organic food products: Products labeled as "organic" or "one hundred percent organic" are assessed 0.30% of the previous ((calendar)) year's ((sales)) gross annual income for the first million dollars and 0.11% for ((sales)) gross annual income above one million dollars.

(b) Category II - Made with organic food products: Products labeled as "made with organic ingredients" are assessed 0.20% of the previous ((calendar)) year's ((sales)) gross annual income for the first million dollars and 0.07% for ((sales)) gross annual income above one million dollars.

(c) Category III - Food products with organic ingredients: Products packaged for retail sales that limit ((their)) organic claims to the information panel are assessed 0.11% of the previous ((calendar)) year's ((sales)) gross annual income for the first million dollars and 0.04% for ((sales)) gross annual income above one million dollars.

(d) Category IV - Custom organic food products: Products produced by processors who charge a service fee to organic manufacturers for processing organic food are assessed at 0.40% of the previous ((calendar)) year's service fees received for processing organic food for the first million dollars and 0.11% for service fees above one million dollars.

(e) In the event that the current ((calendar)) year's ((sales (or service fees))) gross annual income exceeds the previous year's ((sales (or service fees))) gross annual income or estimate of

~~((sales))~~ income, the department may bill the applicant for the additional certification fee.

(f) In the event that the current ((calendar)) year's ((sales (or service fees) are)) gross annual income is less than the previous year's gross ((sales (or service fees))) annual income or estimate of sales, the applicant may request a refund for the reduced certification fee.

AMENDATORY SECTION (Amending WSR 03-03-044, filed 1/10/03, effective 2/10/03)

WAC 16-157-240 Handler fee schedule. ~~((Handlers who))~~ (1) If you wish to apply for the organic food certification program, you must ((apply)) submit an application and fees to the department each year.

(a) Handlers ((that)) who process organic food products must apply for organic certification under WAC 16-157-230.

(b) Retailers who wish to apply for the organic food certification program must apply for organic certification under WAC 16-157-245.

(c) Producers ((that)) who package, store, or handle organic products from other certified organic operations must apply for certification as a handler under this section.

(d) Producers who handle only their own organic products do not need to obtain separate certification as handlers.

(e) Producers who are certified as handlers under this section pay certification fees for their own production under WAC 16-157-220 and do not include sales of their own production in the calculation of their handler certification fees.

(f) All other handlers of organic food products may apply for organic certification under this section.

~~((1) Renewal applicants. Application fees must be based on the previous calendar year's sales of organic food. In the event that the current calendar year's sales exceed the previous year's sales, the department may bill the handler for the additional fee. In the event that the current calendar year's sales are less than the previous year's sales, the handler may request a refund for the reduced fee. In addition, renewal applications postmarked after March 1 must pay a late fee of seventy-five dollars.~~

~~(2) New applicants. Application fees must be based on an estimate of the current year's sales of organic food. In the event that the current calendar year's sales exceed the estimate, the department may bill the handler for the additional fee. In the event that the current calendar year's sales are less than the estimate, the handler may request a refund for the reduced fee. In addition, new applicants must pay a one hundred dollar new applicant fee.~~

~~(3) The cost per facility must be based on the following fee~~

~~schedule. The appropriate fee must accompany the application.))~~
(2) Annual fees: The cost per organic handler application is based on the following schedule.

<u>((ORGANIC SALES)) GROSS</u>		<u>FEE</u>
<u>ANNUAL INCOME</u>		
\$ 0 -	\$ 50,000	\$ 200
\$ 50,001 -	\$ 75,000	\$ 250
\$ 75,001 -	\$ 100,000	\$ 330
\$ 100,001 -	\$ 200,000	\$ 440
\$ 200,001 -	\$ 300,000	\$ 550
\$ 300,001 -	\$ 400,000	\$ 660
\$ 400,001 -	\$ 500,000	\$ 770
\$ 500,001 -	\$ 750,000	\$ 990
\$ 750,001 -	\$ 1,000,000	\$ 1,100
\$1,000,001 -	\$ 1,250,000	\$ 1,375
\$1,250,001 -	\$ 1,500,000	\$ 1,650
\$1,500,001 -	\$ 2,000,000	\$ 2,200
\$2,000,001 -	\$ 2,500,000	\$ 2,750
\$2,500,001 -	\$ 3,000,000	\$ 3,300
\$3,000,001 -	\$ 4,000,000	\$ 3,850
\$4,000,001 -	\$ 5,000,000	\$ 4,400
\$5,000,001 -	\$ 6,000,000	\$ 5,500
\$6,000,001 -	\$ 7,000,000	\$ 6,600
\$7,000,001 -	\$ 8,000,000	\$ 7,700
\$8,000,001 -	\$ 9,000,000	\$ 8,800
\$9,000,001 -	\$10,000,000	\$ 9,900
over	\$ 10,000,000	\$ 11,000

(a) New applicants: Application fees are based on an estimate of the gross annual income from organic agricultural products.

(i) In the event that the actual gross annual income exceeds the estimate, the department may bill the handler for the additional fee.

(ii) In the event that the actual gross annual income from organic agricultural products is less than the estimate, the handler may request a refund for the reduced fee.

(b) Renewal applicants: Application fees are based on the previous year's gross annual income from organic agricultural products.

(i) In the event that the current year's gross annual income from organic agricultural products exceeds the previous year's gross annual income from organic agricultural products, the department may bill the handler for the additional fee.

(ii) In the event that the current year's gross annual income from organic agricultural products is less than the previous year's gross annual income from organic agricultural products, the handler may request a refund for the reduced fee.

(c) Late fees: Renewal applications postmarked after March 1 must include a late fee in addition to the renewal fee.

If your application is postmarked
after March 1 but before:

The late fee is:

<u>April 1</u>	<u>\$150.00</u>
<u>May 1</u>	<u>\$300.00</u>
<u>June 1</u>	<u>\$450.00</u>
<u>July 1</u>	<u>\$600.00</u>
<u>August 1</u>	<u>\$750.00</u>
<u>September 1</u>	<u>\$1,000.00</u>

(d) New application fee: New applicants must pay a two hundred fifty dollar new application fee in addition to the annual fees.

AMENDATORY SECTION (Amending WSR 03-03-044, filed 1/10/03, effective 2/10/03)

~~WAC 16-157-245 Retailer fee schedule. ((Retailers who wish to apply for the organic food certification program must apply to the department each year.~~

~~(1) Renewal applicants. Application fees must be based on the previous calendar year's sales of organic products. In the event that the current calendar year's sales exceed the previous year's sales, the department may bill the retailer for the additional fee. In the event that the current calendar year's sales are less than the previous year's sales, the retailer may request a refund for the reduced fee. In addition, renewal applications postmarked after March 1 must pay a late fee of seventy-five dollars.~~

~~(2) New applicants. Application fees must be based on an estimate of the current year's sales of organic food. In the event that the current calendar year's sales exceed the estimate, the department may bill the retailer for the additional fee. In the event that the current calendar year's sales are less than the estimate, the retailer may request a refund for the reduced fee. In addition, new applicants must pay a one hundred dollar new applicant fee.~~

~~(3) The cost per facility must be based on the following fee schedule. The appropriate fee must accompany the application.))~~

(1) If you are seeking organic retailer certification, you must submit an application and fees to the department each year.

(2) Application fees: The cost per retailer application is based on the following schedule.

<u>((ORGANIC SALES)) GROSS</u>	<u>FEE</u>
<u>ANNUAL INCOME</u>	
\$ 0 - \$100,000	\$330
\$100,001 - \$500,000	\$500
\$500,001 - \$1,000,000	\$750

<u>((ORGANIC SALES)) GROSS</u>	<u>FEE</u>
<u>ANNUAL INCOME</u>	
\$1,000,001 - \$2,000,000	\$1,000
\$2,000,001 - \$3,000,000	\$1,500
\$3,000,001 - \$4,000,000	\$2,000
\$4,000,001 - \$5,000,000	\$2,250
over - \$5,000,000	\$2,500

(a) New applicants: Application fees are based on an estimate of the gross annual income from organic agricultural products.

(i) In the event that the actual gross annual income from organic agricultural products exceeds the estimate, the department may bill the retailer for the additional fee.

(ii) In the event that the actual gross annual income from organic agricultural products is less than the estimated gross annual income from organic agricultural products, the retailer may request a refund for the reduced fee.

(b) Renewal applicants: Application fees are based on the previous year's gross annual income from organic agricultural products.

(i) In the event that the current year's gross annual income from organic agricultural products exceeds the previous year's gross annual income from organic agricultural products, the department may bill the producer for the additional fee.

(ii) In the event that the current year's gross annual income from organic agricultural products is less than the previous year's gross annual income from organic agricultural products, the producer may request a refund for the reduced fee.

(c) Late fees: Renewal applications postmarked after March 1 must include a late fee in addition to the renewal fee.

<u>If your application is postmarked</u>	<u>The late fee is:</u>
<u>after March 1 but before:</u>	
<u>April 1</u>	<u>\$150.00</u>
<u>May 1</u>	<u>\$300.00</u>
<u>June 1</u>	<u>\$450.00</u>
<u>July 1</u>	<u>\$600.00</u>
<u>August 1</u>	<u>\$750.00</u>
<u>September 1</u>	<u>\$1,000.00</u>

(d) New application fee: New applicants must pay a two hundred fifty dollar new application fee in addition to the annual fees.

AMENDATORY SECTION (Amending WSR 03-03-044, filed 1/10/03, effective 2/10/03)

WAC 16-157-250 Inspections. ~~(1)(a) The director shall make ((at least one inspection and any additional inspections deemed necessary to each applicant each year))~~ one or more inspections per year of each certified producer, processor, or handler to determine compliance with this chapter and chapter 15.86 RCW ((and rules adopted pursuant to chapter 15.86 RCW)).

~~((This inspection may entail))~~ (b) Inspections may include a survey of required records, examination of fields, facilities and storage areas, and inspection of any other information deemed necessary by the requirements of this chapter.

(2) The annual on-site inspection and any additional inspections conducted for collecting samples or for surveillance within the state of Washington are provided for under the application and certification fees.

(a) Additional inspections, if necessary to determine compliance or requested, will be charged to the ((applicant)) certified producer, processor, or handler at the rate of forty dollars per hour plus ((mileage)) associated travel costs as set ((at the rate established)) by the state office of financial management.

(b) Out-of-state inspections, if necessary or requested, shall be at the rate of ((\$40/hr.)) forty dollars per hour plus ((transportation)) associated travel costs.

(3) Expedited inspections and evaluations are defined as inspections and evaluations that are conducted outside of the normal inspection and evaluation schedule. Expedited inspections and evaluations are conducted in less than two weeks from the receipt of a written notice.

(a) Applicants for certification and certified operations may request expedited inspections or evaluations.

(b) The department may provide expedited inspections and evaluations if sufficient staff is available to expedite the work.

(c) Expedited inspections and evaluations shall be at the rate of forty dollars per hour, plus associated travel costs.

AMENDATORY SECTION (Amending WSR 03-03-044, filed 1/10/03, effective 2/10/03)

WAC 16-157-255 Sampling. A representative sample of ~~((the))~~ any organic product may be tested for pesticide or other contaminants whenever the director deems it necessary for organic certification or maintenance of organic certification. Sample analysis is provided under the application and certification fees.

AMENDATORY SECTION (Amending WSR 03-03-044, filed 1/10/03, effective 2/10/03)

WAC 16-157-260 Organic and transitional producer certification and the use of logos. (1) ~~((Organic producers certified under this chapter may use the organic producer logo, found in WAC 16-157-275, to identify organic products.~~

~~Transitional producers certified under this chapter may use the transitional producer logo, found in WAC 16-157-275, to identify transitional products.~~

~~(2))~~ The director must review the application, inspection report, and results of any samples collected to determine ~~((that the))~~ if a producer has complied with the conditions for organic or transitional certification. A certificate will be issued when the director determines that the producer has complied with the conditions for organic or transitional producer certification.

(2) Organic producers certified under this chapter may use the organic producer logo, found in WAC 16-157-275, to identify organic products.

(3) Transitional products certified under this chapter may use the transitional producer logo, found in WAC 16-157-275, to identify transitional products.

AMENDATORY SECTION (Amending WSR 03-03-044, filed 1/10/03, effective 2/10/03)

WAC 16-157-270 Organic food processor and handler certification and use of logos. (1) The director must review the application, inspection report, and results of any organic samples collected to determine ~~((that the))~~ if a processor or handler has complied with the conditions for organic food certification. An organic food certificate will be issued when the director determines that the processor or handler has complied with the conditions for organic food certification.

(2) Processors certified under this chapter may use the organic processor logo, found in WAC 16-157-275, to identify organic products processed by the facility.

(3) Handlers certified under this chapter may use the organic handler logo, found in WAC 16-157-275, to identify organic products handled by the facility.

AMENDATORY SECTION (Amending WSR 03-03-044, filed 1/10/03, effective 2/10/03)

WAC 16-157-290 Export and transaction certificates. (1) Organic export and transaction certificates are issued to verify that a specific shipment of organic food products has been produced, processed, and handled in accordance with the ((2001)) National Organic Program, 7 CFR Part 205, or a foreign organic standard.

(2) Applications for export and transaction certificates must be submitted on forms furnished by the department. The applicant must furnish all information requested on the application. A separate application must be made for each export and transaction certificate.

(3) The fee for export and transaction certificates ((shall be)) is forty dollars per application.